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NEY *v.* HAUN.

Nov. 17, 1921.

[109 S. E. 438.]

1. **Carriers (§ 4\*)—Truck Driver Transporting Goods between Two Cities Not a Common Carrier in Transporting Goods to Third City in One Instance.**—Truck driver engaged in the transfer business in a certain place under license, but not licensed to engage in such business in another city and not pursuing the business of carrying goods over a route from such other city to a third city, and never having held himself out as undertaking to carry goods for the public generally between them, did not, in undertaking to transport goods between such places in a particular instance, assume the liability of a common carrier.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 673.]

2. **Carriers (§ 4\*)—"Common Carrier" Defined.**—To constitute a person a common carrier of goods in a particular instance the carriage in question must be over a route or within a territory over or within which there has been a general undertaking by the person, a holding of himself out as undertaking to carry goods for the public generally, as a business, over that route or within that territory, which undertaking may be either express or may be implied from conduct by a series of acts by known habitual continuance in such line of business.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Common Carrier. For other cases, see 2 Va.-W. Va. Enc. Dig. 673.]

Error to Circuit Court Rockingham County.

Action by Ferdinand Ney against Joseph H. Haun. Judgment for defendant, and plaintiff brings error. Affirmed.

*Chas. A. Hammer*, of Harrisonburg, for plaintiff in error.

*H. W. Wyant*, of Harrisonburg, for defendant in error.

TALBOTT *v.* SOUTHERN SEMINARY, Inc.

Nov. 17, 1921.

[109 S. E. 440.]

1. **Innkeepers (§ 13\*)—"Ordinary" and "Boarding House," within Lien Statute, Distinguished.**—In the statutes from which Code 1919, § 6444, was taken, giving a lien to the proprietor of an inn, ordinary, or boarding house, the term "ordinary" means a public house where food and lodging were furnished to the traveler and his beast, at fixed

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.